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10/726,642	12/04/2003	Andreas Rinke	P24369	6203

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GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON, VA 20191

EXAMINER
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SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/02/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/02/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com



## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adjustment of end positions of the predetermined longitudinal axial displacement in claim 1 (before and after the adjustment), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 9, 10, 12, 13, 15-21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Crosara (EP 1138215).

Crosara discloses a tobacco processing conveyor drum (spreading/sliding) for receiving axially aligned articles that are conveyed in a cross-axial direction toward said conveyor drum, said conveyor drum comprising a shifting device (see Figures 1-3) positioned to act on each fed row of articles for changing a longitudinal axial spacing of the articles by a predetermined longitudinal axial displacement, an adjustment device (16, 31) assigned to at least one wobble plate (10) structured and arranged to adjust end positions of the predetermined longitudinal axial displacement, seats (13) structured and arranged to receive the articles and to move in a longitudinal axial direction, wherein the shifting device includes the at least one wobble plate (10) displaceable in the longitudinal axial direction parallel to the articles, a drive (18) for the at least one wobble plate (10), wherein the seats comprise at least two seats (13) arranged for articles on a movable carriage (8, 15 or 17), wherein said at least two seats (13) or said carriage are connected to the at least one wobble plate (10).

Crosara also discloses a process of changing a longitudinal axial spacing between axially aligned articles moving in a cross-axial direction comprising a conveyor

Art Unit: 3651

drum, placing the articles on a plurality of aligned positionably adjustable seats (13), a shifting device to change the spacing between the positionably adjustable seats within a predetermined range, an adjustment device (16, 31) coupled to the shifting device to adjust end positions of the predetermined range whereby a magnitude of the predetermined range is adjusted, said shifting device (see Figures 1-3) comprises at least one wobble plate (10) to which said plurality of aligned positionably adjustable seats (13) are coupled, wherein the adjustment device (16, 31) is structured and arranged to displace the at least one wobble plate (10) and wherein the adjustment device (16, 31) is arranged to displace the at least one wobble plate (10) at least one of linearly and angularly.

***Allowable Subject Matter***

Claim 14 has been allowed.

Independent claim 14 recites the structural limitation of a conveyor drum comprising said at least two seats or said carriage are connected to said wobble plate by a ball joint, in combination with the rest of the recited structure, clearly defines over the prior art.

Claim 22 has been allowed.

Independent claim 22 recites the structural limitation of a conveyor drum comprising the changing of the position of at least one wobble plate comprises adjusting an angular position of the at least one wobble plate with the conveyor drum, in combination with the rest of the recited structure, clearly defines over the prior art.

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Dependent claim 7 recites the structural limitations of wherein said wobble plate is angularly displaceable such that an angle between a rotational axis of said wobble plate and a rotational axis of said conveyor drum is changeable, in combination with the rest of the recited structure, clearly define over the prior art.

### ***Response to Arguments***

Applicant's arguments filed 9/29/06 have been fully considered but they are not persuasive.

The drawing objection still stands. While Applicant submits that the end positions are shown in Figures 3 and 6, there is no reference numeral directed towards any end position, before or after the adjustment of them.

Regarding the claim objections and the 112 second paragraph rejections, the Examiner once again suggests the Applicant to more precisely review the claim language, as it still has a multitude of formal errors.

Applicant argues that Crosara fails to disclose an adjustment device adjusting the end positions of a predetermined longitudinal lift for the conveyed articles and adjusting the end positions of the predetermined range whereby the magnitude of the predetermined range is adjusted. As rejected above, Crosara disclose both of these features, as can be seen in Figures 1-3. In particular, Crosara discloses diverging

Art Unit: 3651

portions (22) of two sinusoidal shaped cams (18) and adjusting a distance in the cross-axial direction of where the longitudinal displacement ends, as shown in Figure 1. Since the longitudinal displacement is adjusted along the sinusoidal shaped cams (18) along diverging portions (22), it can be seen in Figure 1 that the axial end positions are adjusted as well. The fact that Crosara's diverging portions (22) and cams (18) are arranged in a sinusoidal shaped path or track, adjusting the travel distance in the cross-axial direction of the seats (13) and wobble plates (10) would either separate the articles or bring the articles closer together, depending on which cross-axial distance was selected. Therefore Crosara's available lift or the longitudinal axial displacement is not fixed.

Applicant argues that Crosara's "predefined track" may not be changed, however this does not differentiate over whether or not Crosara meets Applicants claim limitations. Crosara as rejected above, does indeed disclose each and every claim limitation defined within the claim language, including an adjustment device, thereby adjusting a predetermined longitudinal axial displacement, a longitudinal sliding movement or a longitudinal displacement of the seats. Crosara's seats (13) move longitudinally linearly within wobble plate (10) along carriages (8, 15 or 17). Ranges within a fixed path can and are still adjustable within the Crosara reference, in the longitudinal axial direction. Applicant argues that the Crosara reference shows a fixed path, however Applicant's structural arrangement also shows a fixed path. Applicant fails to argue and/or disclose the exact structural differences between the Crosara reference and Applicant's claimed invention. Therefore the arrangement of Crosara's

Art Unit: 3651

structural limitations do indeed meet Applicants claim limitations as currently disclosed, as rejected above.

The Examiner's broad interpretation of Crosara's slides (10) to be equivalent to Applicant's "wobble plates" is well within the scope of Applicant's claim limitations.

Merriam-Webster's Collegiate Dictionary 10<sup>th</sup> Edition defines *wobble* as: *an uncertainly directed movement; to move or proceed with an irregular rocking or staggering motion or unsteadily and clumsily from side to side*. Therefore, a "wobble plate" as claimed by the Applicant appears to indicate that Applicant's claimed invention comprises an unstable structural element in order to effect an adjusting movement. Since Applicant has failed to assign any further structure and/or any further orientation of Applicant's wobble plates, Crosara's slides (10) do indeed meet this claim limitation.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



Art Unit: 3651


extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PATRICK MACKEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600